

RESOLUTION 2019-028
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE CITY AND THE CITY OF LOVELAND FOR
THE CONSTRUCTION, OWNERSHIP, OPERATION, MAINTENANCE AND
MANAGEMENT OF A REGIONAL TRAINING CAMPUS

WHEREAS, in October 2017, the City and the City of Loveland (collectively, the "Cities") entered into an intergovernmental agreement (the "Initial IGA") for the sharing of costs for the design and construction administration of a jointly-owned police regional training campus (the "Training Campus") to be constructed at the Northern Colorado Regional Airport in Loveland; and

WHEREAS, it is the Cities' intent that that the Training Campus will be a centralized public safety training facility for use by both Cities' police employees and by law enforcement agencies serving the northern Colorado community; and

WHEREAS, it is the Cities' intent that the Training Campus be owned, designed, constructed, operated, maintained and managed equally be the Cities, with other agencies paying the Cities for their use of the facilities; and

WHEREAS, since the execution of the Initial IGA, the Cities have worked collaboratively together and are in the final stages of completing the design and development components outlined in the Initial IGA; and

WHEREAS, the Cities' staffs have proposed an Intergovernmental Agreement, attached as Exhibit "A" and incorporated by reference (the "IGA"), which memorializes the terms for the construction, ownership, operation, maintenance and management of the Training Campus; and

WHEREAS, the IGA establishes the total cost of the design and construction of the Training Campus in an amount not to exceed \$18,518,782.00, and that each City will be responsible for an equal share of that cost, or \$9,259,391.00; and

WHEREAS, after the Training Campus becomes operational, the Cities will share administration, operations and maintenance costs equally, in accordance with an annual operating budget to be established by the Cities' respective Chiefs of Police; and

WHEREAS, in addition to each City using the facility for their own training needs, the Cities anticipate renting access to the Training Campus to other law enforcement agencies with the revenue from said rentals dedicated to offsetting the costs of administering, operating and maintaining the facility; and

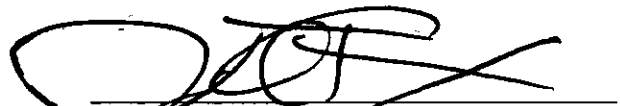
WHEREAS, the City Council has determined that it is in the best interests of the City and beneficial to the northern Colorado region at large that the Mayor be authorized to execute the IGA between the City and the City of Loveland.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:


Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals above.

Section 2. That the Mayor is hereby authorized to enter into the IGA, in substantially the form attached hereto as Exhibit "A," together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or to effectuate the purposes of this Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 19th day of February, A.D. 2019.


Mayor

ATTEST:


City Clerk



**INTERGOVERNMENTAL AGREEMENT
FOR THE CONSTRUCTION, OWNERSHIP, OPERATION, MAINTENANCE, AND
MANAGEMENT OF THE REGIONAL TRAINING CAMPUS**

THIS INTERGOVERNMENTAL AGREEMENT FOR THE CONSTRUCTION, OWNERSHIP, OPERATION, MAINTENANCE, AND MANAGEMENT OF THE REGIONAL TRAINING CAMPUS (the "Agreement") is made and entered into this ____ day of _____, 2019, between THE CITY OF LOVELAND, COLORADO, a municipal corporation, hereafter "Loveland," and THE CITY OF FORT COLLINS, COLORADO, a municipal corporation, hereafter "Fort Collins," and hereinafter each referred to as a "City" and collectively referred to as "Cities".

WITNESSETH:

WHEREAS, the Cities are each home-rule municipalities that maintain police departments to provide law enforcement services to their respective citizens and employ police employees who participate in ongoing training regarding projectile weapons and vehicle use in order to maintain and improve the skills necessary to perform police functions; and

WHEREAS, currently each of the Cities' police employees conduct projectile weapons training and vehicle/driver training separately and combining such training at one facility will create cost efficiencies for both police departments; and

WHEREAS, Loveland considers it a priority to effectively operate a public safety training campus that will better meet the needs of the Loveland Police Department and the northern Colorado community as a whole; and

WHEREAS, Fort Collins agrees that a centralized public safety training campus for use by law enforcement agencies serving the northern Colorado community would benefit the citizens of Fort Collins and, therefore desires to partner with Loveland in the construction and administration of a public safety training campus; and

WHEREAS, it is the Cities' intent that the public safety training campus would serve as a regional training facility for several other governmental agencies in and around Colorado's Northern Front Range, including the Larimer County Sheriff, the Weld County Sheriff, the Greeley Police Department, the Windsor Police Department, the Colorado State University Police Department, and others; and

WHEREAS, the Cities jointly-own real property on which the Cities operate the Northern Colorado Regional Airport. The Cities intend to utilize an available portion of such real property for the construction and eventual operation of a police regional training campus; and

WHEREAS, pursuant to Section 29-1-203 of the Colorado Revised Statutes, the Cities are authorized by law to contract with one another to provide for the joint exercise of any function, service or facility lawfully authorized to each of the Cities if such contracts are approved by their governing

bodies; and

WHEREAS, on October 23, 2017, the Cities executed an Intergovernmental Agreement For The Sharing Of The Cost Of The Preliminary Design, Design Development, Construction Drawings, And Construction Administration Relating To The Construction Of A Regional Training Campus, which established the preliminary cost, design, and planning requirements of the Cities (the "Initial IGA"); and

WHEREAS, the Cities' intent of this Agreement is that the training campus will be owned, designed, constructed, operated, maintained, and managed equally by the Cities, with other agencies paying the Cities for their use of the facilities; and

WHEREAS, since the execution of the Initial IGA, the Cities have worked collaboratively together and are in the final stages of completing the design and development components outlined in the Initial IGA; and

WHEREAS, the Cities desire that the training campus be constructed utilizing the Construction Manager at Risk ("CMAR") delivery method which entails a commitment by a Construction Manager, as designated by the Cities, to complete construction of the campus within a guaranteed maximum price and a firm completion date; and

WHEREAS, the Cities seek, by this Agreement, to memorialize the terms on which they have agreed, in a collaborative manner, to engage in the construction, ownership, operation, maintenance, and management of the campus, with the intent that their collaborative undertaking shall continue for many years to come and include subsequent amendments to this Agreement and the adoption on an Operation Plan approved by each City's Chief of Police or his or her designee.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, IT IS AGREED by and between the parties hereto as follows:

1. **Mutual Undertaking.** The Cities agree that the construction, ownership, operation, maintenance, and management of the regional training campus ("Training Campus") will be a mutual undertaking between the Cities, with each City equally sharing in the authority and obligations associated with or arising from construction, ownership, operation, maintenance and management of the Training Campus, unless specifically stated otherwise in this Agreement.
2. **Training Campus Real Property Agreement.** The Cities agree that it shall be their joint responsibility to negotiate and execute an agreement for the use of the real property underlying the Training Campus consistent with the scope and purpose of this Agreement, and said use agreement shall be approved by the Cities' respective governing bodies.
3. **Construction of the Training Campus.** Loveland shall engage a vendor through a competitive sealed proposal process, pursuant to Loveland's municipal code and Loveland's administrative procurement regulations, to construct the Training

Campus, utilizing the Construction Manager at Risk ("CMAR") delivery method, subject to the approval of Fort Collins. Fort Collins shall participate equally in the vendor selection process. The Cities agree that the Training Campus shall, at a minimum, contain a driving track, a firearms range, a skills pad, and adequate classroom space as detailed in the design document, attached hereto as **Exhibit A**. Loveland shall be the party issuing the agreement to the selected CMAR and agreements to other contractors necessary to complete the project. The Training Campus shall be constructed in accordance with the requirements of the Loveland Municipal Code. The Cities agree that Loveland shall be the sole signatory for purchasing, consulting, and other contracts necessary to complete the construction of the Training Campus as contemplated by the Cities. Loveland must provide Fort Collins an opportunity to review and comment on all such agreements, and Loveland must receive written approval from Fort Collins prior to executing any such agreements. Loveland shall provide Fort Collins the opportunity to review and approve any change order in excess of ten thousand dollars (\$10,000) and any invoice, pay application or billing from any contractor prior to approving and issuing any such change order or payment to a contractor. Fort Collins shall have seventy-two (72) hours from receipt of a change order, invoice, pay application or billing to consent or object, and Fort Collins' failure to timely respond shall be considered consent.

- a. **Cost.** Loveland and Fort Collins mutually agree that the total cost of the Training Campus shall not exceed \$18,518,782.00 dollars and that each City shall be responsible for appropriating an equal share of the cost (\$9,259,391.00). Fort Collins agrees to submit proof of appropriation to Loveland mentioned in the immediately preceding sentence as soon as practicable upon the appropriation being authorized by the Fort Collins City Council. Proof may be in the form of an executed ordinance or other legal instrument which demonstrates an authorization to expend the Fort Collins equal share on the Training Campus.
- b. **Payments.** Loveland shall invoice Fort Collins for Fort Collins' fifty percent (50%) share of CMAR and construction costs in accordance with a mutually agreeable payment schedule (the "Payment Schedule"). The Cities shall produce the aforementioned Payment Schedule within thirty (30) days of the execution of the CMAR contract, which Payment Schedule is subject to change based on changes to the project schedule and milestones as mutually agreed by the Parties. Upon execution of the CMAR contract, Loveland will invoice Fort Collins and Fort Collins shall remit \$1,500,000.00 to Loveland within thirty (30) days of receipt of the invoice to ensure Loveland remains in a positive cash position throughout the term of the CMAR contract; provided however, in no event shall Fort Collins be required to remit the \$1,500,000.00 until after Fort Collins receives the proceeds from its financing for this project. Thereafter, Loveland shall invoice Fort Collins for fifty percent (50%) of each project milestone at least sixty (60) days before the anticipated milestone date in accordance with the Payment Schedule as may be revised from time to time by the Parties. Fort Collins shall pay amounts owed to Loveland within thirty (30) days of receipt of said invoices. The Cities agree that it is their mutual intent that Loveland have sufficient funds

on hand, contributed equally by the Cities, to meet all payment requirements for the project. Loveland shall keep payments received from Fort Collins in a designated account, and any interest earned on said fund shall remain in said account for the benefit of the Training Campus.

c. Sustainability Requirements.

i. LEED Certification. The Cities agree that the administration and classroom building portion of the Training Campus shall be designed, constructed, and certified to the highest LEED certification practical. The cost of attaining that standard and certification shall be shared equally by both Cities, because each recognize the significant efficiencies that will reduce future operational and maintenance costs for the Training Campus.

ii. Photovoltaic System. Both Cities agree to include in the design and construction of the Training Campus a solar photovoltaic ("PV") system and infrastructure required for a PV system, which PV system to have an estimated return on investment of ten (10) years or less and an expected life of twenty-five (25) years or more. The PV system must be sufficiently sized to achieve the renewable energy credits necessary to meet the highest LEED certification practical.

iii. Energy Efficiencies. The remaining portions of the Training Campus not identified in subsection (i) above shall be designed and constructed to include as many green building principles as will provide a reasonably good return on investment, including but not limited to, high efficiency mechanical and electrical systems, but without any requirement for LEED certification of the entire Training Campus site. Loveland will provide the Training Campus with non-carbon tariff rate electricity to offset any renewable energy deficiency remaining from the LEED standard achieved to make the Training Campus a noncarbon electrical facility. Loveland shall use a regularly accepted methodology to calculate the non-carbon tariff rate electricity needed to close the aforementioned deficiency.

d. Americans with Disabilities. The Training Campus shall be designed and construction to comply with all federal, state and local laws, including the requirements of the Americans with Disabilities Act ("ADA").

e. Construction Grants. Any grants received by the Cities for the benefit of the construction of the Training Campus, shall be utilized toward making facility improvements by awarding bid alternates in the contract documents or any other improvements agreed to by both Cities. Any grants received shall not be included in the total not-to-exceed amount specified in Subsection (a) of this Section 3.

4. Joint Training Campus Operation and Maintenance. The operation and maintenance of the Training Campus is a joint venture between the Cities, with full management and policy-making authority vested equally in both Cities. "Policy Issues" shall

include, but shall not be limited to, participation in federal and state grant agreements, construction of capital projects, and approval of the annual contributions to the Training Campus Dedicated Funds (defined below in Section 10). Policy Issues shall require the approval of each City's City Councils.

5. Facility Management. Management of the Training Campus shall be vested in each City's Chief of Police or his or her designee. The Chiefs of Police shall be responsible for approving an Operation Plan that will serve as the principal document by which the Training Campus will be utilized and maintained by the Cities. The Operation Plan shall reflect that each City shall have an opportunity for equal access to the Training Campus to meet, at a minimum, each City's basic training needs. The annual schedule for use of the Training Campus by the Cities and by third parties shall be determined by mutual agreement of the Chiefs of Police or their designees and set forth in the Operation Plan; provided, however, the Campus Manager shall have certain authority with respect to adjustment of the annual schedule for the Cities and third parties as providing in Section 9(c) herein. The Operation Plan will also address the use of the Training Campus by third parties including proposed fees for such use, and the manner in which each City may provide Administrative Services (defined below in Section 7) to benefit the Training Campus. In addition, the Operation Plan may include rules and regulations concerning the use of the Training Campus. The Chiefs of Police are responsible for the governance of the Training Campus related to any issue that is not considered to be a Policy Issue as defined in Section 4 above, which shall include approval of all third-party use agreements for the Training Campus and final determination of any scheduling disputes arising from actions taken by the Campus Manager. In the event of a dispute between the Chiefs of Police that cannot be settled in good faith, the Cities agree that the dispute will be directed to the City Managers for discussion and decision. If the Cities fail to resolve disputes via the City Managers, the Cities may utilize, subject to mutual agreement, the dispute resolution process identified in Section 17(b) of this Agreement. If the Cities have failed to resolve disputes via Section 17(b) or have not mutually agreed to utilize Section 17(b), the Cities may utilize Section 17(c) or Section 18 of this Agreement.
6. Minimum Annual Planning Meeting. The Chiefs of Police and other appropriate staff shall meet a minimum of once per year in April to discuss any amendments to the Operation Plan; budgetary requirements for future budget years; scheduling usage of the Training Campus; the review of rates, fees, and charges; and other pertinent matters as may be necessary and appropriate for the continued operation and maintenance of the Training Campus.
7. Administrative Services. Loveland shall provide "Administrative Services" for the Training Campus, which shall include appropriate costs for services allocated by Loveland's Finance, Human Resources, Risk Management, Facilities Management, Information Technology, City Attorney, postage and other similar administrative services. After the Training Campus is open and operational, each City shall be responsible for fifty percent (50%) of the costs of the Administrative

Services. Loveland shall identify the costs for Administrative Services as a separate line item within the Operations Fund (defined below in Section 10). Loveland shall place its and Fort Collins' payments for Administrative Services into the Operations Fund, and Loveland shall be entitled to draw from the Operations Fund to pay the costs of the Administrative Services. The administrative charge shall be calculated in the same manner as charges made by the providing Loveland to its own governmental enterprise funds.

8. Employee Status. All employees of each City who perform any services in relation to the Training Campus and this Agreement shall remain the employees solely of the City which employed them to perform such services and not of the other City.
9. Training Campus Manager, Appointment, and Duties. The Loveland Chief of Police shall appoint a Training Campus Manager subject to the regulations and policies of Loveland, after consulting with and obtaining prior written consent of the Fort Collins Chief of Police. The Campus Manager shall be an employee of the City of Loveland solely dedicated to the Training Campus. The Campus Manager shall:
 - a. Propose an Operation Plan to the Chiefs of Police for their consideration and approval as soon as practicable; and
 - b. Subject to and consistent with the direction of the Chiefs of Police, manage the operations of the Training Campus, in accordance with the Operation Plan, in a safe and efficient manner and maintain the grounds, structures and equipment in a clean, orderly, safe and operational condition in conformity with all applicable federal, state and local laws, rules and regulations and other legal requirements; and
 - c. Manage such operations in a manner which is compatible with the interests of the Cities, including monitoring the annual training schedule established in the Operation Plan and, in the event changes to the schedule are necessary to account for unforeseen circumstances or training needs, adjusting said schedule while ensuring each City maintains an opportunity for equal access to the Training Campus; and
 - d. Perform all duties normally associated with sound, safe, innovative, prudent and efficient management practices for a law enforcement training facility and provide for all services as are customary and usual to such an operation, including, but not limited to, the following:
 - i. Maintenance and Repair Services. Maintain and repair the Training Campus (structurally and otherwise) in a good and skillful manner more particularly described to include:

1. All equipment and facility features including, but not limited to, the driving track, firearm range, skills pad, and classrooms;
2. All vehicles, machinery and tools used in the operation, maintenance or repair of the Training Campus;
3. All Training Campus grounds including, without limitation, fences, parking lots, grass cutting, and removing or topping trees and shrubs where and when necessary; and
4. All Training Campus buildings and structures, including, without limitation, plumbing, electrical, sprinkler, heating and air conditioning systems, apparatus and other equipment; and
5. All components of the Art in Public Places as per requirements of City of Loveland program.
6. All other maintenance obligations as set forth in the adopted Operation Plan. The Campus Manager may recommend the disposition of obsolete or surplus property to Chiefs of Police consistent with Loveland's purchasing ordinances, regulations or rules. Any proceeds from the sale of such surplus property shall be deposited into the Operations Fund and shared equally by the Parties.

ii. Support Functions. In a manner consistent with sound law enforcement training facility operating and safety practices, perform or cause to be performed:

1. Operation of the firearms range for the benefit of the Cities and other third-party users thereof; and
2. Operation of the driving track and skills pad for the benefit of the Cities and other third-party users thereof; and
3. Operation of the classrooms and other appurtenant facilities for the benefit of the Cities and other third-party users thereof; and
4. Coordinate with Loveland's Accounting Department to ensure timely and accurate collection, remittance, and reporting of all fees and revenue collected from third-parties that use the Training Campus; and
5. Expedient removal of snow and ice from all ways designed for pedestrian or vehicular use; and

6. Security of the Training Campus; and
 7. All other support functions as set forth in the adopted Operation Plan.
- iii. Negotiations with Third Parties. In connection with the solicitation of proposals for procurement and the negotiation of such Training Campus use agreements with third parties as may be necessary or desirable for the proper and financially prudent operation of the Training Campus in accordance with federal, state and local laws, rules and regulations and any grant agreements or related assurances, perform the following:
1. Administer and monitor all agreements with third parties and ensure full and complete compliance with the terms and conditions contained in such agreements, and endeavor to see that such agreements are carried out in a manner which is consistent with the Operating Plan.
 2. Subject to direction from the Chiefs of Police and in conformance with Loveland's procurement requirements and the Operation Plan, procure such services, equipment, materials, and supplies as may be necessary for the proper operation and marketing of the Training Campus. The Campus Manager may only procure services, equipment, materials and supplies that do not exceed \$10,000, and no procurement shall be divided so as to avoid the maximum dollar amount. Each City shall review and approve all procurements and associated agreements and change orders exceeding \$10,000.
- iv. Training Campus Budget. Timely prepare the Training Campus Annual Operating Budget to submit said budget to the Chiefs of Police at the April planning meeting pursuant to Section 6 of this Agreement, and then timely submit the annual request for the Training Campus budget contributions through both Cities' regular budget processes for approval. The Annual Operating Budget shall itemize all anticipated revenues and operating expenses and shall support such items of revenue and expense with records and documents.
1. Prepare an Annual Operation Update for submission to the Chiefs of Police which shall include, but not be limited to: a maintenance and repair schedule; a schedule of proposed Training Campus fees for third-party users; a list of all contracts and agreements to be negotiated, renegotiated or renewed; recommendations, if any, for revisions of the Operation Plan; recommendations, if any, for non-capital equipment; a five-year projection of anticipated revenues and expenses based on a

comparison with the previous fiscal year, if applicable, and prepared with reference to other relevant data; a schedule of proposed staffing levels of full-time, part-time and seasonal employees, and any other factors which may affect Training Campus operation and management.

- v. Capital Replacement Plan. Prepare and submit to the Chiefs of Police a written five-year Capital Replacement Plan in conjunction with the annual planning meeting beginning in 2020, and every five (5) years thereafter or as otherwise directed by the Chiefs of Police.
10. Dedicated Fund. The City of Loveland is acting as the fiscal agent for the Training Campus and shall keep a fund for the benefit of the Training Campus (the "Dedicated Fund"). The Dedicated Fund shall consist of two separate and independent categories of funds: 1) a lapsing capital fund ("Capital Fund"); and 2) a lapsing fund for the annual expenses for Administrative Services, operation, and maintenance ("Operations Fund"). On an annual basis, when the budget and annual contributions from each of the Cities are calculated, any remaining fund balance in the Operations Fund will be applied to offset the annual contributions from each City to the Operations Fund. On a monthly basis, Loveland shall provide a record of the revenues, expenses, and account balances for the Capital Fund and the Operations Fund. The Dedicated Fund shall be equally owned by both Cities but will be held in trust by Loveland acting as the fiscal agent. The Dedicated Fund shall be subject to annual appropriation by the governing bodies of each City. However, Loveland shall treat the Capital Fund as though it were a non-lapsing fund to the maximum extent possible under the Loveland municipal code. Loveland staff shall submit to its City Council the funds contained in the Capital Fund for annual re-appropriation during its annual budget process.
 11. Training Campus Revenue. The Cities shall adopt rates, fees, and charges for third-party use of the Training Campus in accordance with each City's charter and ordinances. All revenue generated by the Training Campus received shall be deposited into the Operations Fund and shared equally by the Cities.
 12. Grants. Any and all grants received by a City in connection with the Training Campus shall be shared equally by the Cities and deposited in the appropriate Dedicated Fund for purposes that are mutually agreed between the Cities.
 13. Training Campus Expenses: The net annual operating costs ("Net Annual Operating Costs") for the operation and maintenance of the Training Campus will be funded by the Operations Fund and shared equally on a 50% basis for each City. The Net Annual Operating Costs shall be calculated by subtracting the budgeted annual fees, charges and other revenue from the budgeted annual operating costs. On December 15th each year, Loveland shall invoice Fort Collins for fifty percent (50%) of the budgeted Net Annual Operating Costs to be paid by Fort Collins to Loveland within thirty (30) days of issuance. By September 1st of each year, the

Cities shall identify any shortfall in the then current annual Operations Fund and seek supplemental budget and appropriation of an equal share of the additional funds necessary to satisfy the Net Annual Operating Costs from their respective City Councils.

- a. Expendable supplies, including, ammunition, shooting targets, and fuel shall not be included in the Operations Fund and will either be supplied by the individual Cities or shall be captured in the cost to third party users of the Training Campus.
14. Initial IGA Excess Funds. The Cities agree that any and all excess funds remaining from Phase 1 of the Training Campus project will be rolled over to support completion of the design and construction of the Training Campus project. The Cities, by execution of this Agreement approve the continuation of the Training Campus project pursuant to Section 4 of the Initial IGA, of which the Cities acknowledge receipt thereof.
 15. Construction Excess Funds: The Cities agree that any excess funds remaining after the completion of the design and construction of the Training Campus will be returned to the Cities equally.
 16. Status as Governmental Entities. The parties are governmental entities; therefore, all direct and indirect financial obligations of each party under this Agreement shall be subject to annual appropriations pursuant to Article X, Section 20 of the Colorado Constitution, the parties' respective charters and ordinances, and applicable law. This Agreement and the obligations of the parties hereunder do not constitute a multi-year fiscal obligation and are expressly contingent upon the parties' respective governing bodies budgeting and appropriating the funds necessary to fulfill the parties' respective obligations. If a party does not appropriate funds sufficient to meet its obligations under this Agreement, such non-appropriation will constitute a termination by such party, effective on January 1 of the party's fiscal year for which the funds are not appropriated regardless of any notice period required under this Agreement. The non-appropriating party shall give written notice of such non-appropriation of funds to the other party not later than thirty (30) days after the non-appropriating governing body approves its annual appropriations ordinance for any calendar year for which the ordinance does not include funding to meet its financial obligations for the ensuing fiscal year. Such termination shall be subject to the provisions of Section 18(b) below.
 17. Dispute Resolution.
 - a. Informal Resolution. Should Loveland or Fort Collins not agree on any matter arising out of or related to this Agreement or the ownership, use, expansion, remodel, operation or other matter pertaining to the Training Campus, the Cities shall use best efforts to meet and seek to resolve their disagreement informally through discussions between the Police Chiefs. If the Police Chiefs cannot

resolve the dispute, the parties shall bring the dispute to the City Managers for discussion and decision.

- b. Mediator or Arbitrator Selection. In the event Loveland or Fort Collins mutually agree to binding or nonbinding arbitration or mediation, Loveland and Fort Collins shall each select an arbitrator or mediator. The arbitrators and mediators selected by each City shall then select a single arbitrator or mediator to hear and decide the dispute. Costs of any arbitration or mediator shall be shared equally by the Cities.
 - c. Formal Resolution. Should Loveland or Fort Collins, despite best efforts, be unable to reach agreement, either City may seek to have the dispute resolved by a court of competent jurisdiction.
18. Termination. If, after the Cities are unable to reach a resolution pursuant to Section 17 of this Agreement through informal resolution, arbitration, or mediation, then if either City fails to perform its obligations under the terms of this Agreement, the non-defaulting City may provide the defaulting City with written notice of the nature and extent of the default. If the default remains uncorrected after thirty (30) days from the date the notice is received, then the non-defaulting City may elect to bring an action for specific performance, or to pursue any other remedies provided for in this Agreement, or remedies available at law or equity.
- a. If the parties fail to reach agreement upon any decision which must be reached by mutual agreement under this Agreement, either party may terminate this Agreement upon not less than thirty (30) days written notice to the other party. Each party will equally share and be obligated to pay any financial costs related to this Agreement that have incurred up to the date of termination.
 - b. Upon termination, the non-defaulting City, or the City not seeking termination under the immediately preceding Section 18(a) of the Agreement, ("Purchasing City") possesses a right of first refusal to acquire the other City's interest in the Training Campus. The Purchasing City shall pay an amount not to exceed \$9,259,391.00 dollars for the other City's interest in the Training Campus. The Purchasing City may select an appraiser who shall provide an appraisal to both Cities using industry standard methodology for valuing a one-half interest in the Training Campus, without considering anticipated revenues or the land upon which the Training Campus is constructed. The Purchasing City may then acquire the other City's interest by payment to the other City of the amount determined by Purchasing City's appraiser (not to exceed \$9,259,391.00 dollars). The Purchasing City will also possess an option to pay the aforementioned determined appraised value over a three (3) year period in equal installments.
 - i. Should the Purchasing City decline the right of first refusal, the other City may only sell its interest in the Training Campus to a political subdivision of the state of Colorado, a city, or a town, which also manages a law

enforcement agency in Larimer County or Weld County subject to the approval of the City retaining an interest in the Training Campus, which shall not be unreasonably withheld. The purchase price may then be negotiated between the City seeking to sell its interest and the interested third party political subdivision of the state of Colorado, city, or town, which also manages a law enforcement agency in Larimer County or Weld County, Colorado. Any such qualifying entity acquiring an interest in the Training Campus shall be bound to this Agreement, and any, then existing amendments, and such qualifying entity shall be substituted in place of the City no longer retaining an interest in the Training Campus. Alternatively, at the Purchasing City's sole discretion, the qualifying entity and the Purchasing City may negotiate new terms upon the qualifying entity acquiring an interest in the Training Campus.

ii. Under no circumstances shall either City be permitted to sell, sublease, transfer or otherwise assign any interest other than a one-half interest in the Training Campus.

19. Notices. Any notice, request, demand, consent, or approval, or other communication required or permitted hereunder, shall be in writing and shall be deemed to have been given when personally delivered, faxed, emailed, or deposited in the United States mail with proper postage and addressed as follows:

If to Loveland:

Chief of Police
Loveland Police Department
810 E. 10th Street
Loveland, CO 80537

City Manager
with a copy to: Loveland City Attorney
City of Loveland
500 E. 3rd Street
Loveland, CO 80537

If to Fort Collins:

Chief of Police
Fort Collins Police Services
2221 S. Timberline Road
Fort Collins, Colorado 80525

City Manager
with a copy to: Fort Collins City Attorney
City of Fort Collins
300 LaPorte Avenue
P.O. Box 580
Fort Collins, CO 80522

20. Relationship of Parties, Non-liability of Individuals, Benefit, No Assignment. The parties enter into this Agreement as separate, independent governmental entities and maintain such status throughout. No officer, agent or employee of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or of any supplement, modification or amendment

to this Agreement because of any breach thereof, or because of his, her or their execution or attempted execution of the same. This Agreement is made for the sole and exclusive benefit of the Cities, their successors and assigns, and is not made for the benefit of any third party. The parties covenant and agree that they will not assign this Agreement, any interest or part thereof or any right or privilege pertinent thereto, without written consent of the other party first having been obtained.

21. Liability. Each party shall be responsible for any and all claims, damages, liability and court awards including costs, expenses and attorney fees incurred as a result of any action or omission of such party or its respective officers, employees and agents in connection with such party's performance of this Agreement. Notwithstanding anything in this Agreement to the contrary, nothing herein shall be construed as a waiver of the notice requirements, defenses, immunities, and limitations of liability the parties and their respective officers, directors, councilors, employees, volunteers, and agents may have under the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*, or to any other defenses, immunities, or limitations of liability available to the parties by law.
22. Insurance. Loveland will require that any vendor selected related to the construction, maintenance, or operation of the Training Campus shall maintain adequate general liability insurance, automotive insurance, workers' compensation insurance, builder's risk insurance, and any other coverage as the Cities may jointly require of the vendor. Said insurance coverage shall name the City of Fort Collins as an additional insured. Upon construction of the Training Campus being completed, Loveland shall maintain adequate insurance coverage to protect the Cities' joint interest in the Training Campus. All insurance premiums and insurance payments related to the Training Campus shall be considered Administrative Services pursuant to Paragraph 7 and Paragraph 10 of this Agreement requiring each City to pay one half the cost of all Administrative Services. The Cities agree to deposit any excess insurance payments received by the Cities' insurer, if any into the Operations Fund and shared equally by the Parties.
23. Entire Agreement/Ambiguities. This Agreement embodies the entire agreement of the parties. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. No changes, amendments or modifications of any of the terms or conditions of this Agreement shall be valid unless reduced to writing and executed by both parties. In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.
24. Applicable Law, Severability. The laws of the State of Colorado shall be applied in the interpretation, execution and enforcement of this Agreement, and venue for any action arising hereunder shall be Larimer County, Colorado. Any provision rendered null and void by operation of law shall not invalidate the remainder of this Agreement to the extent that this Agreement is capable of execution.

25. No Third Party Beneficiaries. This Agreement is made for the sole and exclusive benefit of the parties hereto and shall not be construed to be an agreement for the benefit of any third party or parties and no third party shall have a right of action hereunder for any cause whatsoever.
26. Counterpart Signatures. The parties agree that counterpart signatures of this Agreement shall be acceptable and that execution of the Agreement in the same form by each and every party shall be deemed to constitute full and final execution of the Agreement.

IN WITNESS WHEREOF, this Intergovernmental Agreement has been executed that day and year first above written.

[signature pages follow]

THE CITY OF LOVELAND, COLORADO
A Municipal Corporation

ATTEST:

City Clerk

By: _____
Stephen C. Adams, City Manager

APPROVED AS TO FORM:

Loveland City Attorney

THE CITY OF FORT COLLINS, COLORADO
A Municipal Corporation

ATTEST:

City Clerk

By: _____
Mayor

Printed name

APPROVED AS TO FORM:

Assistant City Attorney

Printed name